

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

JOSE TORRES-HURTADO,

Petitioner,

v.

Civil Action No. 2:10-cv-8

KUMA DEBOO, Warden,

Respondent.

ORDER

It will be recalled that on May 3, 2010, Magistrate Judge James E. Seibert filed his Amended Report and Recommendation, wherein the parties were directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within fourteen (14) days after being served with a copy of the Report and Recommendation. Petitioner filed his objections on May 6, 2010.

Upon examination of the report from the Magistrate Judge, it appears to the Court that the issues raised by the Petitioner in his Petition for Writ of Habeas Corpus, filed pursuant § 2241, were thoroughly considered by Magistrate Judge Seibert in his Report and Recommendation. Upon review of the Petitioner's objections, the Court finds that the Petitioner has not raised any issues that were not already throughly considered and addressed by the Magistrate Judge in his Amended Report and Recommendation. As more fully set forth in the Amended Report and Recommendation, the Court finds that the Federal Bureau of Prisons (BOP) must adhere to the statutory guidelines provided in computing federal terms of imprisonment, and upon review, the BOP did not err in calculating the Petitioner's sentence. The Court, upon an independent *de novo* consideration of all matters now before it, is of the opinion that the Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in this action. Therefore, it is

ORDERED that Magistrate Judge Seibert's Amended Report and Recommendation be, and the same hereby is, accepted in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

ORDERED that the Respondent's Motion to Dismiss or for Summary Judgment (Docket No. 8) shall be, and the same hereby is, **GRANTED**. It is further

ORDERED that the Petitioner's § 2241 habeas corpus petition shall be, and the same hereby is, **DENIED**. It is further


ORDERED that the above-styled action shall be **DISMISSED with prejudice** and **STRICKEN** from the docket of this Court. It is further

ORDERED that the Clerk shall enter judgment for the Respondent. It is further

ORDERED that, if a party should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, Petitioner may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed *in forma pauperis* from the United States Court of Appeals for the Fourth Circuit.

The Clerk of Court is directed to transmit copies of this Order to the *pro se* Plaintiff and to any counsel of record.

DATED: July 6, 2010.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE